

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

In re:

ALTO MAIPO DELAWARE LLC, *et al.*,

Debtors.

Chapter 11

Bankruptcy Case No. 21-11507 (KBO)

OFFICIAL COMMITTEE OF
UNSECURED CREDITORS,

Appellant,

v.

ALTO MAIPO DELAWARE LLC and
ALTO MAIPO SPA,

Appellees.

C.A. No. 22-0280-RGA

Bankr. BAP No. 22-012

RECOMMENDATION

At Wilmington this **25th** day of **March, 2022**.

WHEREAS, pursuant to paragraph 2(a) of the Procedures to Govern Mediation of Appeals from the United States Bankruptcy Court for this District dated September 11, 2012, the court conducted an initial review, which included information from counsel,¹ to determine the appropriateness of mediation in this matter;

WHEREAS, as a result of the above screening process, the issues involved in

¹ Written information was provided by counsel for the parties which is not made part of the court record because it relates to mediation.

this case are not amenable to mediation and mediation at this stage would not be a productive exercise, a worthwhile use of judicial resources nor warrant the expense of the process.

In this Appeal, the Appellant is the Office Committee of Unsecured Creditors. The Appellees are Alto Maipo Delaware LLC and Alto Maipo SpA (“Debtors”), the Term Lenders, Strabag and Cerberus.

Although the parties have not previously participated in mediation, they believe it would not produce nor lead to possible settlement, and therefore, it would not be beneficial. Appellees view the matter on Appeal as a binary issue and not likely amenable to compromise or settlement. Appellant desires for the Appeal to proceed without the interruption of mediation given the timetable for the chapter 11 plan process

The parties have proposed the following briefing schedule:

Appellant’s Opening Brief Due on or before **April 20, 2022**

Appellees’ Answering Brief Due on or before **May 20, 2022**

Appellant’s Reply Brief Due on or before **June 3, 2022**

THEREFORE, IT IS RECOMMENDED that, pursuant to paragraph 2(a) Procedures to Govern Mediation of Appeals from the United States Bankruptcy Court for this District and 28 U.S.C. § 636(b), this matter be withdrawn from the mandatory referral for mediation and proceed through the appellate process of this Court. No objections are anticipated to this Recommendation pursuant to 28 U.S.C. § 636(b)(1)(B), FED. R. CIV. P. 72(a) and D. DEL. LR 72.1 because it is consistent with the parties request.

Local counsel are obligated to inform out-of-state counsel of this Order.

/s/ Mary Pat Thyng

Chief U.S. Magistrate Judge Mary Pat Thyng